



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CHRISTOPHE CARRET ET AL.

Serial No.: 10/679,173

Filed: October 3, 2003

For: AUTOMATED STORAGE SYSTEM FOR  
INDIVIDUAL AND SUPERSETS OF MEDIA

Attorney Docket No.: 2003-027-TOU (STK 03027 PUS)

Group Art Unit: 2651

Examiner: Kin C. Wong

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Final Office Action mailed December 22, 2005, Applicants request review of the legal and factual basis of the rejections prior to the filing of an appeal brief. A notice of appeal is being filed together with this request for review.

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8 (FIRST CLASS MAIL)**

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on:

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Jeremy J. Curcuri  
Name of Person Signing

*Jeremy J. Curcuri*  
Signature

### **Remarks**

Claims 1-20 are pending in this application. Claims 1-2, 5-7, 11, 14-15, and 17-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Gariepy et al. (U.S. Patent No. 6,900,960). Claims 3-4, 8-10, 12-13, 16, and 19-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gariepy et al. in view of Mizukami et al. (U.S. Patent No. 5,598,385). The invention is believed to be patentable. These rejections are believed to be clearly improper, and based upon clear error.

Claim 1, for example, recites an automated storage system comprising a media storage facility, at least one mechanism for accessing individual media, and at least one mechanism for accessing supersets of media. The media storage facility includes a plurality of individual medium slots. Each individual medium slot is for storing an individual medium. The media storage facility further includes a plurality of superset slots. Each superset slot is for storing a superset of media.

Claim 1 specifically recites that the media storage facility is configured such that any individual media located in a superset remain accessible on an individual basis in addition to being accessible as part of the superset where it is located. The Examiner relies on the primary reference, Gariepy, to meet this recited claim limitation. Gariepy fails to describe or suggest this limitation.

Applicants have pointed out the deficiency of Gariepy. For example, see the Reply Under 37 C.F.R. § 1.111 filed on September 26, 2005 at p. 2., l. 24 to p. 3, l. 13.

In the final rejection mailed on December 22, 2005, in the Response to Arguments section, the Examiner states that “applicants argue that Gariepy et al. fails to suggest the accessibility to the superset.” The Examiner goes on to direct attention to several specific parts of Gariepy.

The Examiner's summary of Applicants' argument is inaccurate. Applicants argue that Gariepy fails to suggest that "any individual media located in a superset remain accessible on an individual basis in addition to being accessible as part of the superset where it is located." The Examiner's characterization of this feature as "accessibility to the superset" ignores specific details recited in the claims.


Regarding the portions of Gariepy to which the Examiner has directed Applicants' attention, these portions of Gariepy do not address the noted deficiency. Col. 3, ll. 28-45, describes cartridges, cartridge magazines, and storage racks. Nevertheless, there is no suggestion of the claimed feature of "any individual media located in a superset remain accessible on an individual basis in addition to being accessible as part of the superset where it is located." Col. 4, ll. 28-31, describes that the number of tape drives can be varied. Col. 5, ll. 36-53, describes certain details of the transporter. Col. 6, ll. 30-53, describes other aspects of the transporter. None of these portions of Gariepy address the particular deficiency of Gariepy that has been pointed out by Applicants.

In addition, Applicants point out that Gariepy does not involve a mechanism for accessing supersets of media, as claimed. The Examiner refers to the transporter which moves cartridges between the storage rack and tape drive. The tape drive accesses individual cartridges. Thus, Gariepy does not involve accessing supersets of media. And in any event, as explained above, Gariepy does not suggest individual media in a superset remaining accessible both individually and as part of the superset.

For reasons given above, Applicants respectfully request that the panel members review the rejections in this application, and find that the application is not in condition for appeal.

Respectfully submitted,

**CHRISTOPHE CARRET ET AL.**

By:   
Jeremy J. Carcari  
Registration No. 42,454  
Attorney for Applicant

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**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075-1238  
Phone: 248-358-4400  
Fax: 248-358-3351